IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO.2172 OF 1998
IN
SUIT NO.2747 OF 1998

Mrs.Sukhbai D. Jain ... Plaintiff

V/s.

Shripal D. Jain & Anr. ... Defendants

None for Plaintiff
Mr.N.Y. Gupte for Defendants

CORAM: **S.C. DHARMADHIKARI, J.**

DATED: **JUNE 9, 2005**

P.C.:

. Mr.Gupte appearing for Defendant No.2 informs me that the issue which was referred to a larger bench of this Court has been decided and it is held that the suit can be filed in a civil Court. However, he informs me that by virtue of the proceedings in the Family Court, Defendant No.2 has been permitted to use and occupy the suit flat. However, none appears for the plaintiff to contest this Notice of Motion. There is no ad-interim order either. The Notice of Motion is pending from 1998. The Notice of Motion is, therefore, dismissed. However, it will be open for the plaintiff to take out appropriate proceedings for the same relief if and when the occasion arises and disposal of the present Notice of Motion would not constitute a bar in either

instituting or prosecuting the same.